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FROM: PETER SMYTH
Political Affairs Division
13 November 1996

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cc PS/Secretary of State (B&L) - B
PS/Sir John Wheeler (B&L) - B
PS/Michael Ancram (B&L) - B
PS/Malcolm Moss (DHSS, DOE & L) - B
PS/Baroness Denton (DED, DANI & L) - B
PS/PUS (B&L) - B
PS/Sir David Fell - B
Mr Thomas - B
Mr Steele - B
Mr Bell - B
Mr Leach - B
Mr Watkins - B
Mr Stephens - B
Mr Wood (B&L) - B
Mr Beeton - B
Mr Priestly - B
Mr Hill (B&L) - B
Mr Lavery - B
Mr Maccabe - B
Mr Perry - B
Ms Bharucha - B
Ms Mapstone - B
Mr Whysall (B&L) - B
Ms Collins, Cab Off (via IPL) - B
Mr Dickinson, TAU - B
Mr Lamont, RID FCO - B
HMA Dublin - B
Mr Westmacott (via RID) - B
Mr Campbell-Bannerman - B
Mrs McNally (B&L) - B

NOTE FOR THE RECORD

TALKS: TUESDAY 12 NOVEMBER 1996

Summary

The day was given up to wide-ranging bilateral meetings. The UUP took the opportunity to set out their stall on decommissioning in general and on the Alliance Party's proposals in particular. Time was also found to re-light the fires under the issue of terms and conditions for Sinn Fein entry into Talks. The SDLP covered much the same ground, although from the point of view of disproving the utility of the Alliance proposals. The Irish Government provided a comprehensive readout of probable thinking in the Republican

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movement, and the need for great flexibility by HMG in considering terms for Sinn Fein's admission to Talks. The sensitivity of Sinn Fein to being treated on anything other than a footing of equality with other political parties was strongly emphasised. The possibility of a meeting between Sinn Fein and HMG officials was welcomed.

Detail

UUP

A delegation consisting of Messrs Empey, Donaldson, Weir, Kerr, and P King came in at 10.55am. **Mr Empey** began the general rehearsal of his Party's need to secure a general understanding on the decommissioning issue before they could enter the 3-stranded agenda. The UUP had undertaken lengthy discussions with the Alliance Party on their decommissioning proposals. These had been generally positive, with signs of convergence, and the sense was that the differences between them on matters of detail were probably resolvable. The UUP bilateral with the SDLP which was scheduled for the present afternoon might be used to explore whether there was anything behind the signs of interest in the Alliance proposals which certain SDLP members had seemed to display. The **Secretary of State** observed that the Irish Government would probably not cling to the sub-committee concept if the SDLP showed an inclination to sign up to the idea of an Independent Commission. Both Governments regarded the original idea of a sub-committee as a means rather than an end in itself.

Mr Empey went on to say that the UUP wanted to get to a position where decommissioning was seen to be achievable. In those circumstances the issue would cease to dominate the political proceedings. He did not want to see a situation where decommissioning was simply cut loose from the political process, but neither did he favour the model which Mrs Owen appeared to be supporting last week whereby linkages between decommissioning and the political process were so clearly defined that the handing in of guns became a price for specified political concessions.

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In this connection, **Mr Empey** felt that the terms of reference under which the Independent Commission would function would be of crucial importance. He had yet to resolve whether the Commission would have a passive or pro-active role in drawing up any decommissioning scheme. Various schemes were possible under the general guidelines laid down in the Mitchell Report. He envisaged the Commission operating with sufficient flexibility to carry out negotiations with the terrorists, and informing the Government or Governments of the outcome, so that the decommissioning scheme(s) drawn up under the legislation in both jurisdictions could make appropriate arrangements.

In theory that could take place either on day one of the political discussions or at the very end; but in reality he envisaged some kind of ongoing liaison between the two processes, so that a rough check could be kept on progress. In other words, the Commission could operate without being constrained by rigid adherence to specific dates, times and places, provided there was some overall assurance that decommissioning would take place in line with the Mitchell recommendations. It was unrealistic to expect that every detail could be agreed and finalised in advance - if only because the terrorists themselves would be making their own judgement about what was deliverable in the light of developments in the political process. The terrorists would have to be given a general undertaking that the political agenda would be dealt with in a genuine way, but at the same time made to understand that there could be no question of tranches of arms being handed in as payment for specified political achievements. Slightly against this flow, **Mr Donaldson** put down a marker that HMG should not over-estimate the acceptability of the Alliance scheme to the UUP, or the possibility of them finding common ground with the SDLP.

Mr Empey said that he recognised the strategy of the two Governments was to wean Sinn Fein away from violence, and as a politician he had to recognise at least the theoretical possibility of the latter's redemption. But the limitations on the Unionists' room for manoeuvre also had to be understood. They could not permit the situation to arise whereby Adams was allowed to take part in the political talks,

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and claim to the outside world that he had entered into political negotiations without making any concessions whatsoever on the arms front. The UUP was under no illusions that, were the IRA to call a ceasefire, HMG would be under enormous pressure to bring Sinn Fein into the Talks forthwith, quite possibly on reassurances as to permanence even more fragile than those that had applied in the case of the 1994 ceasefire.

From the UUP point of view, therefore, it was imperative that when Sinn Fein arrived at the table they would sign up to a decommissioning deal which committed them, within a reasonable timetable, to seeing arms given up as part of the political process. This had to be done in such a way that it avoided the pitfalls of the Owen approach which bartered installments of arms for specified advances down the political road. Paragraphs 34 and 35 of the Mitchell Report were - and in this respect he had to agree with the McCartney analysis - "toxic" in the extent to which they appeared to envisage strong and specific linkages between progress in the two tracks. The UUP would much prefer a looser formula in which, consistent with the broad principles of the Mitchell Report, decommissioning was to take place "in the course of" political progress.

The **Secretary of State** said that, in his view, parallel decommissioning implied that both political development and decommissioning were taken forward at the same time, under an assumption that sensible progress would be recognised, rather than closely defined in advance. He suspected that, in practice, the absence of progress in one track would automatically discourage progress in the other. **Michael Ancram** supported this view. If there was to be no decommissioning, then political progress was highly unlikely. That made the kind of precise benchmarking which appeared to be envisaged in Ken Maginnis' original proposals somewhat prescriptive. Confidence was essential in both tracks, and it was essentially a two-way process.

Whether or not to avoid more protracted discussion on this issue, **Mr Empey** at that point abruptly re-focussed the discussion by asking a

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series of questions about the conditions under which Sinn Fein would be given admission to the Talks. The **Secretary of State** replied with standard lines that there had been no change on the publicly declared policy in this respect, and that the possibility of judicial review precluded him from making any particularly adventurous interpretation of the requirements of paragraphs 8 and 9 of the Ground Rules. **Mr Empey** was disposed to query whether what he referred to as "nods and winks" were sufficient to give his Party comfort - the precedent of 1992 was not a happy one. The **Secretary of State** said that the Government, at the time of a ceasefire being announced, might decide to bring forward a statement of the criteria it intended should be fulfilled before Sinn Fein was given access to the Talks process.

The meeting ended at 11.40 am.

SDLP

At 12.10 pm a delegation consisting of Messrs Durkan, Haughey, Farren and Atwood plus Mrs Rodgers came in. **Mr Farren** led with a long explanation of why the SDLP found the Alliance proposals for an Independent Commission to be so unsatisfactory. Essentially this was because the idea of considering decommissioning in a sub-committee of the plenary still appeared to offer the best opportunity of resolving the issues, and allowing the Talks participants to move forward expeditiously to discussions in the three-stranded agenda. In his analysis, the outstanding issues could all be dealt with in the sub-committee on a time-limited basis, thus minimising the opportunity for further delay.

Mr Durkan pointed out that another implication of the Alliance proposals - which they had tried to tease out in their recent bilateral with Party - was that there appeared to be no linkage between the Plenary and the Independent Commission. While the parties could go individually to the Commission, he felt there was a need to avoid severing all links between the Commission and the political talks taken collectively. His feeling was that the Alliance Party had not quite thought through its proposals in this regard. **Mr Farren** added that, during the "operational phase" of

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decommissioning, liaison would be particularly necessary; but even in the planning phase, consideration of decommissioning could not go on without political input. There was nothing to stop consideration of mechanisms taking place in parallel with three-stranded discussions.

Michael Ancram summarised the position by saying that the SDLP feared that progress would be delayed on the political agenda if consideration of decommissioning remained in the Plenary, while the UUP feared that consideration of decommissioning would be similarly delayed if it were to be remitted to a sub-committee of the Plenary, where non-Unionists would be enabled to exercise a power of veto. **Mr Durkan** said that he saw the sub-committee mechanism as an essential means of promoting understanding and resolving the difficulties which would arise in teasing out the practical implications of paragraphs 36-50 of the Mitchell Report.

The **Secretary of State** said that it had to be recognised that the Unionist desire to make urgent progress on decommissioning and enter into substantive discussions was largely generated by suspicions that HMG were going to bring Sinn Fein into the process on easy terms. **Mr Durkan** said that he appreciated that, but at the same time he had to observe that, in their dealings with the UUP, it always seemed to be the SDLP which had to give ground.

The **Secretary of State** then asked the delegation whether, in view of the requirements placed on him by the Entry into Negotiations Act and paragraphs 8 and 9 of the Ground Rules, he would be safe to rely on the words of any IRA ceasefire declaration as being sufficient to allow Sinn Fein access to the Talks? A series of confused offerings were then put forward by Messrs Durkan and Farren - any ceasefire would obviously involve substantial behind-the-scenes work by the Sinn Fein leadership, and account should be taken of this; reassurance that the ceasefire was genuine would be given by every day during which peace prevailed; the absence of punishment beatings would be a helpful sign etc etc. Ultimately, they recognised that the trustworthiness of the ceasefire would be a matter for political judgement, and would never be easy - the fact that a ceasefire had been called at all, and that Sinn Fein had demonstrated a willingness

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to work constructively, would come to constitute tangible proof of credibility.

On this revealing, although not particularly helpful, note the meeting ended at 12.15.

Irish

At 1.20 pm an Irish delegation consisting of Minister Coveney and senior officials came for a working lunch. The **Secretary of State** provided a brief read-out of the morning's bilaterals. **Mr Coveney** acknowledged that the SDLP/UUP gap might be difficult to bridge. This he attributed largely to the fact of the latter consistently shifting ground and pocketing the concessions on points of detail offered to them by the SDLP. He expressed surprise at the extent to which HMG appeared disposed to favour the Alliance approach on decommissioning. Following a 1½ hour meeting with the Alliance Party, he had formed the opinion that their ideas had not been fully thought through, and that the Party itself were somewhat surprised at the amount of attention which HMG appeared willing to devote to them. From a semi-recumbent position in his chair, **Mr O'hUiginn** opined that the Alliance ideas represented an unwieldy decommissioning process grafted onto an unreal Talks process, and he doubted that if even the Party itself had any real belief that their ideas could possibly succeed. For good measure, he added that he regarded the Unionist position as undeliverable, and felt that the entire political process might well break on that rock.

Before the uneasy silence which greeted these contributions extended to an embarrassing degree, the **Secretary of State** asked the Irish if they had any indication from Sinn Fein about the language which was likely to be used to underpin an IRA declaration of a ceasefire. **Mr O'hUiginn** said that his sense was that more attention was being given to preparing a critique of the latest HMG language than in developing the Republicans' own.

The **Secretary of State** said firmly that HMG believed that a ceasefire was obviously worth having, and would be anxious to facilitate it by

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helping if possible those trying to produce it. Politically, however, the Government could not change its policy as already announced. At the previous bilateral, he had come under renewed pressure from the Ulster Unionists to declare a specified time table and a shopping list of conditions which Sinn Fein would have to meet. Given what we knew of the IRA's plans for the future, it was impossible for him to move without getting some indication from Sinn Fein that they understood the realpolitik of the situation.

Mr O'hUiginn said that the Irish Government understood the HMG position, and had tried to make this clear in their contacts with Sinn Fein. He believed that Sinn Fein had the capacity to deliver peace, but there were conflicting pressures within the Republican movement too. In the Republican analysis, the ceasefire statement was not that important in itself - it was the surrounding circumstances which would be provided by HMG in giving comfort to the movement and avoiding any suggestion of conferring second-class citizenship which would be of crucial significance. Dignity was all-important to them, and any question of a sanitation period or time served in a probationary mode would simply be unacceptable to them. The **Secretary of State** said the British side acknowledged the sensitivities of the Republican psyche in this respect, but pointed out that the SDLP and Dublin Ministers had initially signed on to the idea that Sinn Fein's admission to Talks could not be instantaneous - even the Tanaise had referred to "a matter of weeks".

O'hUiginn's

Referring to recent Dublin statements about each bomb deepening the credibility gap which Sinn Fein would have to bridge, **Michael Ancram** asked if there was any recognition of this on the part of Sinn Fein. Mr O'hUiginn said that there was, but only to a limited extent. The compartmentalised logic of the Republican movement was that if there was no peace there must be war. In such a situation, the military wing carried out certain actions, and Sinn Fein had certain responsibilities in the political dimension, but no direct connection was seen between the two. We had to realise that the Republican rationalisation process was very different from our own. They genuinely believed that they were not responsible for the breakdown

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of the last ceasefire, and that made the prospect of selling a new ceasefire all the more difficult.

The **Secretary of State** referred to his difficulties under the legislation and paragraphs 8 and 9 of the Ground Rules. **Mr O'hUiginn** warned that the Republican movement would never accept that the Secretary of State had sole responsibility for determining the attendance of Sinn Fein at the Talks table. Signing up to the Mitchell Principles would be a considerable advance on the position in 1994, and would bring them into a situation where their compliance could easily be monitored. What we were witnessing was an historical process, and it was necessarily messy.

In reply to a question from Michael Ancram, **Mr O'hUiginn** suggested that Sinn Fein would be very uneasy about signing up to the Mitchell Principles without first being guaranteed a place in the Talks. He further thought that British expectations of a complete cessation of any activity on the ground which could be deemed to be contrary to the ethos of the ceasefire was unrealistic. Renouncing violence would be an evolutionary process on the part of the Republican movement and a certain amount of tolerance would have to be given. If Sinn Fein were given access to the political process, there was a good chance that they would eventually secure the conversion of the entire Republican movement. Even the Irish Government recognised that there was an unquantifiable element of risk in this, but they were perhaps disposed to display more latitude than HMG. The fact that Republicanism was even contemplating returning to a ceasefire for the second time indicated the continuing attractions of the political process for them. In an oblique attempt to add reassurance, Mr Coveney said no Taoiseach would want to give his support to a ceasefire which was liable to break down.

Michael Ancram said that he found all this somewhat discouraging. If the ceasefire was to be regarded as part of the political process, it implied that Republicans reserved to themselves the right to break or reinstate it as often as was required until they got what they wanted from the process. The **Secretary of State** said that the political reality he was faced with was that neither his Cabinet colleagues nor

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the Unionists would sign up to him accepting Sinn Fein's right of entry to the Talks merely on the words of a ceasefire declaration alone.

Mr O'hUiginn then observed that the restrictions of the Entry to Negotiations legislation did not cover the Republic of Ireland, and there was scope - in theory - for the Dublin Government to take a different view of how paragraph 8 of the Ground Rules should be interpreted. He also suggested that HMG might ultimately be faced with two options, neither of them particularly attractive. Option 1 would be to allow Sinn Fein into the process without delay and accept the resulting flack from Unionists. Option 2 would be to spin out the process, and end up in a situation of adjudicating every incident which occurred during that period with a view to assessing its significance for the maintenance of the ceasefire. He suspected that any final adjudication of the long-term intentions of Republicanism would be considerably more difficult after a three-month delay than at the beginning of it. **Michael Ancram** pointed out that, if Sinn Fein entered into Talks under conditions unacceptable to at least some of the Unionists, they would bring an end to the entire process, and in such circumstances the ceasefire in all probability would end too. **Mr Coveney** said that it was regrettable that, with a largely shared (?) analysis, the two Governments could not between them find a way forward. He wondered if there was any scope for manoeuvre for building in a Talks break around the anticipated departure of Senator Mitchell and the Christmas holidays. **Mr O'hUiginn** repeated that the period of delay was less important to Republicans than the status accorded to them for its duration.

Mr O'hUiginn said that he recognised that the Prime Minister would need presentational help if he were to consider any departure from the stated position of HMG. He doubted if such help would be forthcoming. He wondered if any direct contact between Sinn Fein and HMG would be possible. The **Secretary of State** said that if there were to be a ceasefire, direct contact with Sinn Fein would be on offer to help fill the interim period until they entered the Talks. **Michael Ancram** expanded that by saying that were Sinn Fein to request such meetings in those circumstances, then the request would be

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judged on its merits. **Mr O'hUiginn** asked about availability in present circumstances, and asked for clarification on how the merits would be judged. The **Secretary of State** confirmed that the position was as it had been set out in the Joint Communiqué of 28 February last, but that we were open to considering any request for a meeting in the light of current circumstances.

Mr O'hUiginn said he was encouraged to find that British sensitivities were not at such a high level that a meeting between Sinn Féin and officials was absolutely out of the question at present. **Mr Thomas** queried whether such a meeting was likely to be helpful. Was there any realistic possibility that Sinn Féin would be prepared to say more to HMG than they have already done to Irish officials? **Michael Ancram** put down a marker that if any such meeting were to take place, it would have to be made clear in advance that it did not constitute in any sense a negotiation of a ceasefire. **Mr Coveney** seemed particularly interested in taking the idea forward and wondered if it would be helpful for **Mr O'hUiginn** to stimulate a request for a meeting via his Sinn Féin contacts. The **Secretary of State** said that if a message were to be received that a meeting would be genuinely helpful, then the route by which that message was received was not particularly important in itself. He repeated the willingness of HMG to thoroughly explore in a realistic fashion all the avenues which might lead to a permanent peace.

Mr O'hUiginn thought there might be merit in a meeting which sought to establish the limits for manoeuvre on each side. If Sinn Féin were to be informed directly of those areas where HMG might require comfort, it could lead to an exploration of whether the present Republican stance was merely tactical or not. He undertook to pass on the substance of what had been discussed at the present meeting. **Michael Ancram** reiterated that any such message must make it clear that this did not constitute a request from HMG for any meeting with Sinn Féin.

The meeting ended at 2.45 pm.

(Signed)

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